IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

MFA.No. 1095 of 1998(Y)

O.P(LA).NO.235/1996 OF DISTRICT COURT, PATHANAMTHITTA.
.....

APPELLANT/COUNTER PETITIONERS 1 & 2:
----

1. **PONNAMMA ALEXANDER,**
   W/O. LATE MR. T.M. ALEXANDER,
   D.48, PRESS ENCLAVE, SAKAT,
   NEW DELHI, PIN - 110017.

2. **MATHEW ALEXANDER,**
   S/O. T.M. ALEXANDER,
   COMPANY EXECUTIVE OF -DO- -DO-.

BY ADV. SRI.JOSEPH MARKOSE,
SRI.A.KUMAR.

RESPONDENT/PETITIONER/COUNTER PETITIONERS:
----

1. **T.M. MATHEW,**
   S/O. T.C. MATHEW,
   THURUTHIYIL HOUSE,
   NANNUVAKKAD MURI,
   PATHANAMTHITTA VILLAGE,
   KOZHENCHERRY TALUK.

2. **SHOBA ALEXANDER,**
   D/O. T.M. ALEXANDER,
   JOURNALIST OF -DO-.

3. **LEELAMMA THOMAS,**
   W/O. LATE T.M. THOMAS,
   THURUTHIYIL HOUSE,
   NANNUVAKKAD MURI,
   PATHANAMTHITA VILLAGE.

M.F.A. NO. 1095/1998:

4. HARDY MATHEW THOMAS,
S/O. LATE T.M. THOMAS,
LECTURER, C/O. LEELAMMA THOMAS
OF -DO-.

5. JACOB THOMAS,
S/O. LATE T.M. THOMAS,
ENGINEER, D/O. LEELAMMA THOMAS OF -DO-.

6. CHELLAMMA MATHEW,
W/O. LATE C. MAHTEW,
PLOT NO. 120, NEHRU NAGAR,
PUTHYACHIRA, TRISSUR.

BY ADV. SRI.V.G.ARUN FOR R1,
SRI.T.R.HARIKUMAR.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.1095 OF 1998

Dated 11th June, 2007

JUDGMENT

Koshy,J.

First respondent filed a petition for issuance of Letters of Administration of a Will dated 5.8.1989. The appellant filed an objection stating that it was a forged Will. At that time, first respondent sought permission to withdraw the application and it was dismissed as withdrawn. Contention of the appellant is that since it was stated that it was a forged Will, petition for issuance of Letters of Administration should have been converted and tried as a suit. Application of the first respondent was withdrawn by him. Therefore, his rights are not adjudicated. By this order none of the rights of the appellants are affected. Therefore, it cannot be stated that there is any cause for filing appeal against the order allowing withdrawal of the petition for Letters of Administration. We further note that appeal was filed in 1998. Notice to respondents 3 to 5 are not served so far. In any event, there is no merit in the appeal. Impugned order will not affect any of the rights of the appellants.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

tks